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GROUP 3600

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/683,772
Filing Date: February 13, 2002
Appellant(s): STOLIKER ET AL.

Jason Stoliker et al.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 03/06/2007 appealing from the Office action mailed 10/24/2006.

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(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Garg

U.S. 2005/0149374

"Facts for Consumers: Vehicle Repossession"

Federal Trade Commission

(9) Grounds of Rejection

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The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5, 7-13, 15-21, and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garg (U.S. 2005/0149374).

As per claim 1, Garg teaches an online system for issuing vehicle r assignments to vehicle contractors, the system comprising at least one server computer operably serving at least one client computer, the at least one server computer configured to:

(i) host a secure online account for a vehicle repossession contractor wherein the online account is securely and remotely accessible by the contractor (See paragraphs 0045, 0069-70, 0080, wherein the tow truck driver accesses the system from a mobile data terminal. The system requires login to access information of the system);

(ii) receive input assigning at least one vehicle assignment to the contractor wherein the at least one vehicle repossession assignment is added to the contractor's online account (See paragraphs 0045, 0069-70, 0080, wherein the tow truck driver is assigned a tow assignment);

(iii) automatically present the at least one vehicle assignment to the contractor upon the contractor's login to the account (See paragraphs 0043, 0045, 0047-9, 0069, 0080, 0098, wherein the tower logs-in to the system and is able to receive the assignment that was assigned to the

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tower by the dispatcher via the dispatch system. The mobile terminal presents the dispatched assignment and thus it is presented automatically);

(iv) receive input containing feedback from the contractor regarding a vehicle assignment that has been completed (See paragraphs 0069-70, 0080, 0082, 0091, 0093, wherein completed assignments are stored in the system).

Garg further discloses that the vehicle assignment is for a vehicle of a debtor that being taken and held or sold as security or payment for a debt or duty (See paragraphs 0015, 0059, and 0067, wherein the police asked for the vehicle assignment to have the vehicle claimed due to overdue violations and payments).

However, Garg does not expressly disclose that the vehicle assignment is for repossession.

Garg discloses a system where a customer communicates a vehicle assignment request to a dispatcher who assigns the vehicle assignment to a driver of a tow truck. Examiner points out that the fact the vehicle assignment is for repossession is an intended field of use and has no functional significance on the structure or limitations of the claims (i.e. whether the truck is taken by a bank or police based on failure to pay does not change the assignment of the vehicle to a contractor). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to assign a vehicle assignment concerning repossession to a contractor using the system of Garg in order to more efficiently allow a vehicle assignment to be requested by a secondary party, such as police or banks, by using an automated system that reduces errors, cost, and labor requirements. See paragraphs 0012, 0014, 0016.

As per claims 2, 5, 7, and 8, Garg discloses:

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As per claim 2, Garg teaches wherein the at least one server computer is additionally configured to receive input from the contractor accepting or declining the at least one vehicle assignment (See paragraphs 0045, 0069-70, 0080, wherein the contractor accepts or declines a vehicle assignment).

As per claim 5, Garg discloses wherein the feedback includes an invoice for a vehicle assignment that has been performed (See paragraphs 0052, 0060-3, 0091, 0094-5, which discloses an invoice in the system).

As per claim 7, Garg discloses wherein at least one server computer is additionally configured to receive input and present output suspending or canceling a pending assignment (See paragraphs 0081-2, 0091, wherein a dispatch request is cancelled).

As per claim 8, Garg discloses wherein the at least one server computer is additionally configured to initiate a notification to the contractor indicating that a new vehicle assignment is pending at the contractor's online account (See paragraphs 0079 and 0080-1, wherein the contractor is notified).

However, in each of claims 2, 5, 7, and 8, Garg does not expressly disclose that the vehicle is being repossessed.

Garg discloses a system where a customer communicates a vehicle assignment request to a dispatcher who assigns the vehicle assignment to a driver of a tow truck. Examiner points out that the fact the vehicle assignment is for repossession is an intended field of use and has no functional significance on the structure or limitations of the claims (i.e. whether the truck is taken by a bank or police based on failure to pay does not change the assignment of the vehicle to a contractor). Therefore, it would have been obvious to one of ordinary skill in the art at the

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time of the invention to assign a vehicle assignment concerning repossession to a contractor using the system of Garg in order to more efficiently allow a vehicle assignment to be requested by a secondary party, such as police or banks, by using an automated system that reduces errors, cost, and labor requirements. See paragraphs 0012, 0014, 0016.

As per claim 3, Garg teaches wherein the at least one server computer is additionally configured to receive input defining a profile for the contractor (See paragraph 0069-70, 0093, wherein a profile of a contractor is maintained in the system, and new drivers can be added).

As per claim 4, Garg discloses wherein the feedback includes a vehicle condition report for a vehicle (See paragraph 0050, 0054, 0069, 0073, 0091, wherein a description of the car and odometer readings are stored in the system).

However, while Garg discloses that the vehicle is taken because a person had not paid on a debt or duty, Garg does not expressly disclose that the vehicle is being reposed.

Garg discloses a system where a customer communicates a vehicle assignment request to a dispatcher who assigns the vehicle assignment to a driver of a tow truck. Examiner points out that the fact the vehicle assignment is for repossession is an intended field of use and has no functional significance on the structure or limitations of the claims (i.e. whether the truck is taken by a bank or police based on failure to pay does not change the assignment of the vehicle to a contractor). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to assign a vehicle assignment concerning repossession to a contractor using the system of Garg in order to more efficiently allow a vehicle assignment to be requested by a secondary party, such as police or banks, by using an automated system that reduces errors, cost, and labor requirements. See paragraphs 0012, 0014, 0016.

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Claims 9-13 and 15-16 recite equivalent limitations to claims 1-5 and 7-8, respectively, and are therefore rejected using the same art and rationale set forth above.

Claims 17-21 and 23-24 recite equivalent limitations to claims 1-5 and 7-8, respectively, and are therefore rejected using the same art and rationale set forth above.

5. Claims 6, 14, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garg (U.S. 2005/0149374) in view of "Facts for Consumers: Vehicle Repossession" (Federal Trade Commission).

As per claim 6, Garg discloses wherein the feedback includes information concerning the vehicle (See paragraph 0050, 0054, 0069, 0073, 0091). However, while Garg discloses that the vehicle is taken because a person had not paid on a debt or duty, Garg does not expressly disclose that the vehicle is being reposed. Garg further does not disclose a listing of personal property found within the vehicle.

"Facts for Consumers: Vehicle Repossession" discloses identifying personal property found within a repossessed vehicle (See page 2, section 1).

Garg discloses a system where a customer communicates a vehicle assignment request to a dispatcher who assigns the vehicle assignment to a driver of a tow truck. Examiner points out that the fact the vehicle assignment is for repossession is an intended field of use and has no functional significance on the structure or limitations of the claims (i.e. whether the truck is taken by a bank or police based on failure to pay does not change the assignment of the vehicle to a contractor). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to assign a vehicle assignment concerning repossession to a contractor

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using the system of Garg in order to more efficiently allow a vehicle assignment to be requested by a secondary party, such as police or banks, by using an automated system that reduces errors, cost, and labor requirements. See paragraphs 0012, 0014, 0016.

Further, “Facts for Consumers: Vehicle Repossession” discloses information concerning why and how a vehicle would be repossessed. “Facts for Consumers: Vehicle Repossession” specifically discloses that the items left in a repossessed car must be accounted for by the person seizing the car. Garg discloses maintaining management and vehicle related feedback regarding a towed car, such as condition and odometer information, as well as lien information. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include personal property found within a repossessed vehicle in the information of the system of Garg in order to more accurately return personal property to the person from whom the vehicle was repossessed, thus reducing the instances where lawyer intervention is needed. See page 2, section 2, of “Facts for Consumers: Vehicle Repossession”.

Claims 14 and 22 each recite equivalent limitations to claim 6 and are therefore rejected using the same art and rationale set forth above.

(10) Response to Argument

In the Appeal Brief, Appellant provides the following argument:

Garg fails to teach or suggest automatically presenting the at least one vehicle repossession assignment to the contractor upon the contractor’s login to the account.

In response to this argument, Examiner respectfully disagrees. In paragraph 43, Garg clearly states that the towers set up accounts with an ASAP and that each tower has a software client, such as a web browser, that allows them to connect with the system. The tower logs into the system since the system controls access rights. To logon, the user, such as one of the plurality of towers connected to the system, must use a username and password. Once the tower's computer terminal is logged into the server, data is sent from the server to the tower's computer terminal (paragraph 49). The computer connection occurs via the Internet (paragraph 45), and the system has a server, a tower computer terminal, and a customer terminal connected via the system (paragraph 47). Therefore, Garg et al. specifically discloses that the tower logs into the system using a username and password, since the system controls access rights.

In paragraphs 69 and 80, Garg discloses that the tower has the computer terminal of a mobile data terminal. The system dispatches assignments to the tower via this terminal. Specifically, an unassigned job is assigned to a tower that has a mobile data terminal. The job is automatically moved from being unassigned to assigned and is automatically dispatches as a request to the tower's data terminal. In a separate step, the tower accepts the assignment and the system specifically records the time, date, and odometer reading of the tower at the time of acceptance. Therefore, Garg et al. discloses that in order to access the system via a computer terminal, the tower must log on using a user name and password and Garg also discloses that the tower is automatically presented with information from the server, such as assignments, via a (computer) mobile data terminal.

Examiner notes that the vehicle assignment is for repossession in the claims, whereas Garg teaches tow assignments. Therefore, under 35 USC 103, examiner asserted that the fact the

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vehicle assignment is for repossession is an intended field of use and has no functional significance on the structure or limitations of the claims (i.e. whether the truck is taken by a bank or police based on failure to pay does not change the assignment of the vehicle to a contractor). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to assign a vehicle assignment concerning repossession to a contractor using the system of Garg in order to more efficiently allow a vehicle assignment to be requested by a secondary party, such as police or banks, by using an automated system that reduces errors, cost, and labor requirements. See paragraphs 0012, 0014, 0016.

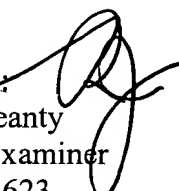
(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


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